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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,888	09/16/2003	William Scott Carmichael	C0959.10.U	4499
29633	7590	01/19/2005		
ROGERS TOWERS, P.A. 1301 RIVERPLACE BOULEVARD, SUITE 1500 JACKSONVILLE, FL 32207			EXAMINER	ZEC, FILIP
			ART UNIT	PAPER NUMBER
			3744	

DATE MAILED: 01/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/663,888	CARMICHAEL ET AL.
Examiner	Art Unit	
Filip Zec	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 15 November 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1 and 3-27 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1,3-14 and 16-27 is/are rejected.

7) Claim(s) 15 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 15 November 2004 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION

Drawings

1. The drawings were received on 11/15/04. These drawings are acceptable.

Response to Arguments

2. Applicant's arguments, see pages 7-9, filed 11/15/04, with respect to the rejection(s) of claim(s) 1-15 and 17-27 under 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made under 102(b) over U.S. Patent 1,614,017 to Nuhrah et al. Per applicant's arguments in regards to the ramp(s) being removable, Nuhrah describes in detail (col 3, lines 55-59) how the entire structure is removable from the container (2). Also, it is obvious to anyone skilled in the art, that the rods (7 and 6) and the ramp (5), attached to the rods, are separable from the rest of the container (FIG. 3). Once the container is filled with either ice or cans, it becomes stationary and reads on the applicant's claims. Finally, the slots used to retain the container are not shown, however they are located on the top right/left corners in FIG. 2, where the top flange (8) of the dividing wall (2c) rests on the outside wall (1).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3-14, 17-22 and 24-27 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 1,614,017 to Nuhrah et al. Nuhrah (FIG. 3) teaches an icebox container (1, FIG. 10) for cooling cans or bottles (4), by direct contact with ice water (col 1, lines 50-54), having a main compartment (2a) accessible from top via a lid (10) and a vertically oriented chute (2b), having a lower opening (FIG. 3a) for providing ingress into the main compartment, a stationary chute ramp member (the curved bottom of element 2, FIG. 3), also for directing the cans along the bottom of the container and a dividing wall (2c) between the chute and the main compartment. Claim 5 of Nuhrah also teaches that the entire structure (2) is used as an insert and, therefor, can be removed from an icebox. Since the whole structure is removable, the retaining means, claimed presently by the applicant with respect to either a divider or a main compartment, is the outer lip (1, FIG. 1). Nuhrah continues to teach an opposing stationary ramp member (5b) for orienting the cans/bottles vertically into the main compartment. Finally, the hinged lever arm (5) holds at least two or more bottles and cans (FIG. 3) and represents the horizontal shelf parallel to the bottom.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 16 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 1,614,017 to Nuhrah et al., in view of U.S. Patent 4,509,587 to Clark et al. Nuhrah discloses applicant's basic inventive concept, an icebox container for cooling cans or bottles by direct contact with ice water, substantially as claimed with the exception of stating the use of apertures in the dividing wall. Clark shows apertures in walls of refrigerated compartments to be old in the cooling art (102, FIG. 5). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Clark to modify the system of Nuhrah, by adding apertures in the dividing wall in order to provide for the flow of the cooling fluid into the chute.

Allowable Subject Matter

7. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Filip Zec whose telephone number is (571) 272-4815. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on (571) 272-4808. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Filip Zec
Examiner
Art Unit 3744

Cheryl J. H.
CHERYL TYLER
SUPERVISORY PATENT EXAMINER

FZ